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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,101	07/31/2003	Glen J. Anderson	P1950US00	7744

24333 7590 01/07/2008  
GATEWAY, INC.  
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EXAMINER
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TECKLU, ISAAC TUKU

ART UNIT	PAPER NUMBER
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2192

MAIL DATE	DELIVERY MODE
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01/07/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/631,101

Applicant(s)

ANDERSON, GLEN J.

Examiner

Isaac T. Tecklu

Art Unit

2192

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-3, 5-19, 21-35 and 37-48.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☒ Other: See Continuation Sheet.

Applicant's arguments filed 03/26/2007 have been fully considered but they are not persuasive.

In the remark the Applicant argues:

Sakata reference does not teach determining an expiration date for fee-based software residing on a computer system.

**Examiner's Response:**

It is respectfully submitted that Sakata reference vividly demonstrates determining or checking an expiration date using Expiration date checking device in FIG. 2. Furthermore, paragraph [0072] discloses using date information obtaining means 66 for obtaining the date information which is included in the reception information, an expiration date checking device 67 for checking the expiration date of respective functions, a function activation device 80 for activating the functions, of which expiration date have been checked, and an IC card 70 as a security module. Further, the IC card 70 is provided with a private key of a terminal 73 for the broadcast reception terminal 60, a public key for the expiration date renewal 74 of the expiration date renewal server 40, an expiration date renewal checking means 72 for decrypting the renewal command of the expiration date, which has been transmitted from the expiration date renewal server 40, an expiration date storage unit 75 for storing the information of the expiration date, which has been renewed in accordance with the decrypted renewal command and an expiration date approving means 71 for determining whether the expiration date expires or not by cross-checking the current date and the function information transmitted from the expiration date checking device 67 with the expiration date stored in the expiration date storage unit 75 and, if the expiration date does not expire, for approving this expiration date. Therefore Sakata teaches determining an expiration date for fee-based software residing on a computer system.

In the remark the Applicant argues:

Replacing outdated software is clearly different than offering alternative software to fee-based software based on the expiration date of the fee-based software.

**Examiner's Response:**


It is respectfully submitted that Sakata clearly teaches in the case where the software of the leased information-based consumer electronic devices becomes outdated, it is necessary that this software is replaced with new software and the hardware is modified in order to provide the updated service (paragraph [0014], emphasis added). Furthermore Sakata teaches that the user can only select the function or the content within the expiration date or it is possible to present only the function or the content within the expiration date to the user. Therefore, the operation of the function or the content is improved for the user (in paragraph [0182]).

In the remark the Applicant argues:

There is no reasonable basis is provided, nor does one appear to exist, as to why one ordinary skill in the art would combine the set top box for pay-per-view system of the Sakata reference with the teachings of the Cheng reference relating to analyzing computer to determine a list of installed software products.

**Examiner's Response:**

Even though Sakata does not explicitly disclose scanning a computer system of a user to detect fee-based software residing on a said computer system of the user. Cheng discloses a method to notify users about new software update information, and new software products for which the user has expressed an interest. As illustrated by FIG. 2, analyze 204 analyzes client computer to determine list of installed fee-based software. Sakata and Cheng are analogous art because their invention deals with a method to update client computers of various end users with software updates for software products installed on the client computers. Therefore it would have been obvious to one skilled in the art at the time of the invention was made to scan a computer system of a user to determine list of installed software as once suggested by Cheng in FIG.2 and related section.

  
ERIC B. KISS  
PRIMARY EXAMINER